

**Department of Human Resources
Division of Health Care Financing and Policy
Meeting for Public Comment on Review
Of Nevada Medicaid Services Manual and
The State Plan for Medicaid Services
December 20, 2005**

Minutes

Attendees

In Carson City, NV
Charles Duarte, Administrator
Mary Wherry, Deputy Administrator
John Liveratti, Chief, DHCFP, Compliance Unit
Darrell Faircloth, DAG

In Las Vegas, NV
Marcie French, AA II, DHCFP

The meeting was called to order by John Liveratti at 9:00 a.m. in room 3138 of the Legislative Counsel Bureau in Carson City, Nevada. The meeting was aired by video conference to Las Vegas simultaneously. Those in attendance are on the attached lists from both locations.

1. Discussion and Proposed Adoption of Amendments to MSM Chapter 1200- Prescribed Drugs.

Coleen Lawrence, Chief, DHCFP, Program Services Unit and Vickie Langdon, SSPS II, DHCFP, Program Support discussed changes to MSM Chapter 1200, Prescribed Drugs. Ms. Lawrence noted that the changes proposed are directly in effect to either the Pharmacy & Therapeutic Committee (P&T), or the Drug Utilization Review Board (DUR Board) for any actual pharmacy changes. There are some definition changes that have been added. The changes are:

1202.26, Step Therapy-amended the definition of Step Therapy by adding verbiage meant to be more consistent with State law.

1203.1.A.2.h, under the Excluded category, excluded the agents used for impotence/erectile dysfunction due to Federal guidelines.

1203.1D.5, Disposable Medical Supplies, amended verbiage to refer to MSM Chapter 1300. This is policy that was related in a different chapter and didn't need to be in MSM Chapter 1200, the Pharmacy chapter.

Mr. Duarte reminded Ms. Lawrence that the House Reconciliation budget bill was proposed prohibiting that so we have to take a look at that language and to work with First Health on this.

1203.1D.6, Unit Dose, amended the procedure verbiage.

1207.B3, Physician Office/Clinic, amended verbiage from, “billed HCPCS J-Codes” to “billed utilizing the appropriate HCPCS Codes” because drugs fall under more than J-Codes in the billing language.

Appendix A changes are specific to drugs and specific to a P&T or a DUR Board action over the last year. The changes are:

Drugs requiring a prior authorization, deleted erectile dysfunction medications. Appendix A, B. Drugs with Quantity Limitations, added “8. Inhaled Anticholinergic Agents” general criteria. Added “9. See Table for Quantity Edits approved at DUR Board 12-16-2004”. Appendix A.2.a, COX II Inhibitors, amended indications and the verbiage on the Prior Authorization Form to match approved indications. Appendix A.6.a, Duragesic/Fentanyl patches, amended approved coverage and limitations. Appendix A.7.a., Erectile Dysfunction Medications, deleted this type of medication from coverage. Appendix A.9.a, Anti-Fungal Onychomycosis, amended coverage and limitations. Appendix A.10.a, Altace (ramipril), amended coverage and limitations to include, “Do not authorize if recipient is pregnant”. Appendix A.12.a, the Standard Preferred Drug List Exception Criteria, amended A.12.a.6, Antidepressant Medication-Continuity of Care, added one new authorization criteria.

Appendix A.B, Drugs with Quantity Limitations, the following have changed quantity limitations:

Appendix A.B.1.a.3, Avinza, the quantity limitations, verbiage changed from tablet to capsule. Appendix A.B.1.1.4, Kadian, amended the coverage and limitations. Appendix A.B.2, Toradol (ketorolac tromethamine), amended coverage and limitations. Appendix A-B.3.a, Anti-Migraine Medications (triptans), amended coverage and limitations. Appendix A-B.5.a, Actiq, amended coverage and limitations. Appendix A-B.6.a, Xopenex (levalbuterol), amended coverage and limitations. Appendix A-B.8, Quantity Edits Table, added quantity edits (from DUR Board Meeting 12-16-04).

Mr. Duarte asked if there were any revisions made to the coverage and limitations of Neurontin.

Ms. Lawrence answered that the P&T Committee may have done something, but did not change a quantity or coverage or indication of it. They may have moved it on the preferred drug list.

Mr. Liveratti asked for questions or comments from the audience in Carson City or Las Vegas.

Donielle Freedman, a physician and also head of the P&T Committee for Nevada Care asked if all these changes specifically are available on the DHCNP website.

Ms. Lawrence responded that there was a redline version of the chapter posted showing what the actual changes were. In addition, in the P&T and Durable

remittance, the changes are always stated there and those links are also on the DHCFP website.

Mr. Liveratti asked Ms. Freedman if she is asking where these changes can be found so that Nevada Care can make the same changes to their pharmaceutical plan. Ms. Freedman said that they want to be sure they are compliant but also would like to make similar changes to ensure they are all on board.

Mr. Duarte clarified that our contracted Managed Care Organizations are not required to have the same formularies or fee-for-service program as DHCFP. While DHCFP encourages Nevada Care to look at these changes and if it makes clinical sense, then they can adopt it, but they are not required to do so.

There were no more comments or questions from Carson City and Las Vegas.

Mr. Liveratti recommended to Mr. Duarte to approve MSM Chapter 1200 as submitted, allowing for grammar and spell check on more time.

Mr. Duarte approved the MSM Chapter 1200 as submitted, also allowing for grammar and spell check.

Mr. Liveratti closed the public hearing on MSM Chapter 1200.

2. Discussion and Proposed Adoption of Amendments to MSM Chapter 1300-Durable Medical Equipment.

Mr. Liveratti opened the public hearing for MSM Chapter 1300.

Ms. Debbie Meyers, SSPS II, DHCFP, Program Services Unit discussed the changes to MSM Chapter 1300. Appendix B, Nevada Medicaid DME Coverage and Limitation Guidelines, regarding Respiratory Assistive Devices BiLevel Positive Airway Pressure (BiPAP) and Continuous Positive Airway Pressure System (CPAP).

The changes that will be effective on approval of the Public Hearing are:

Defined information required for continued usage of CPAP. Approval for continued coverage of CPAP beyond 120 days only requires confirmation of use by recipient. May use "Usage Evaluation" form FH-1A, developed to assist the renewal process for coverage/purchase. Healthcare Common Procedure Coding System (HCPCS) codes K0532 BiPAP without back-up and K0533 with back-up were discontinued by CMS 12/31/2004 were removed. Added new replacement codes E0470 without back-up and E0471 with back-up. No policy changes were included in the BiPAP; it still requires the physician review the recipient as well as the evaluation form identifying the recipient is still using the equipment.

Mr. Duarte asked Ms. Meyers if the CMS guidelines were being adopted for continued usage, and Ms. Meyers confirmed that is what has been done.

Mr. Liveratti asked Ms. Meyers, regarding the Medicaid Transmittal Letter (MTL), where it states the Usage Evaluation Form FH-1A was added. He didn't have a copy of that form in his handouts for the hearing. Ms. Meyers had a copy she would give to Mr. Liveratti, as that needs to be submitted. Mr. Liveratti asked if that was out there for public review. The actual form is not in the MSM Chapter 1300, it's only a reference to an actual First Health form.

Mr. Liveratti clarified that when it's stated on the MTL, under Appendix B, where it states that the form was added, where is it in Appendix B? Ms. Meyers responded it is located under the CPAP in the third column.

Mr. Liveratti asked for public questions or comments from Carson City and Las Vegas. There were none.

Mr. Liveratti recommended to Mr. Duarte to approve MSM Chapter 1300 as submitted and allow for spelling and grammar check one more time.

Mr. Duarte accepted the MSM Chapter 1300 as submitted, also allowing for spelling and grammar check.

Mr. Liveratti closed MSM Chapter 1300.

3. Discussion and proposed Adoption of Amendments to MSM Chapter 3100-Hearings.

Mr. Liveratti opened the Public Hearing on MSM Chapter 3100, Hearings.

Mr. Frances "Tiger" Pope discussed the changes to MSM Chapter 3100. The proposed changes for clarification and consistency are:

Sec. 3102.4 Authorized Representative, added: A written and signed request sent to Nevada Medicaid, to allow representation by a designated person as their legal representative is required. The request would include the designated person's name and relationship to the requestor.

Sec. 3104.13(c)(1) Copying the Hearing Record-added: The requestor may secure a copy of the tape recording and/or transcript of a Fair Hearing by written request to the Department of Administration. Please note that the requestor shall be invoiced from the Department of Administration for this service and the requestor is responsible for the payment of these records.

Sec. 3105- Medicaid Services Hearing Procedure Providers-deletion of three commas from this sentence to allow for easier reading and understanding.

Sec. 3105.1.b-Date of Request-Change hearing request date from 30 days to 90 days.

Mr. Liveratti allowed for a 10 minute break so that Mr. Faircloth could review some documentation.

Mr. Liveratti reconvened the Public Hearing, asking Mr. Faircloth if he had any questions or comments.

Mr. Faircloth stated that in looking at the proposed amendment to Sec. 3104.13(c)(1) Copying the Hearing Record, it appears that DHCFP is imposing upon a recipient a requirement that they pay for a transcript for appeal of an adverse decision of a Fair Hearing. Mr. Faircloth is concerned that may impose an inappropriate burden on the recipient population, a cost which they can ill afford in order to pursue their appeal to District Court. Mr. Faircloth recommended to Mr. Duarte that DHCFP specifically allow that Medicaid would pay for the transcript and other parts of the record should a recipient want to appeal their decision.

Mr. Faircloth clarified, that this would be a benefit only to a recipient, and not to a provider. He also notes that Sec 3105 often makes reference to Sec. 3104 as the basis for provider hearings, and he would not recommend DHCFP pay for the record on appeal for providers, should they want to appeal an adverse decision at Fair Hearing to District Court, as DHCFP's financial concerns for their recipient population are quite different than the concerns for the providers, as they can afford to pursue their appeals.

Mr. Liveratti asked Mr. Faircloth regarding Sec. 3104.13(c)(2), Copying the Hearing Record, where it states that DHCFP will provide official typed transcripts of the tape recording when it goes to District Court, is this what Mr. Faircloth is referring to, because this language can be changed to say that DHCFP will also provide that to the recipient.

Mr. Faircloth agreed that would be an appropriate way to remedy the situation, to indicate this would be at Medicaid's cost.

Mr. Liveratti confirmed the language would state, "...for the District Court and recipient when a hearing decision is appealed."

Mr. Faircloth agreed this would be appropriate.

Mr. Liveratti went on to Sec 3105 where it specifically speaks to the recipient and not providers.

Mr. Faircloth stated he did not have information to answer that question. Often Sec. 3105 will refer back to Sec. 3104 and indicate that the regulation in Sec. 3105 shall apply to providers, just as it applies to recipients, so we may want to look at Sec. 3105.

Mr. Duarte responded that looking at the introduction to Sec. 3105, it states, “All references in Medicaid Services Manual, Section 3105, to Medicaid Services Manual, Section 3104, indicate that the procedures that apply to recipients shall also apply to providers...”

Mr. Duarte asked if the language that is being recommended in Sec. 3104 creates enough of a distinction so that it is excluded from the provisions of Sec. 3105 that apply to providers.

Mr. Faircloth responded he didn’t think it does, however, there are specific provisions in Sec. 3105 that apply to the record for appeal for providers. The particular paragraph in Sec. 3105 that pertains to provider appeals may well already override whatever is provided for in Sec. 3104; thus he has insufficient information to give good advice without looking at the specific provisions of Sec. 3105.

Mr. Faircloth recommended in the interim, in the paragraph Mr. Liveratti spoke of, specifically state that the provision does not apply to providers and discuss the wording over the next round of hearings on regulations regarding this chapter. Thus, at the front of paragraph 2 of Sec. 3104.13(c)(2), begin the paragraph with, “This paragraph shall apply only to recipient appeals and shall not apply to provider appeals. An official typed transcription of the tape recording of the hearing is prepared for the District Court *and recipient...*”

Mr. Duarte suggested adjusting the second sentence to show the transcript would be no charge to the recipient.

Mr. Faircloth corrected himself and said that if they go back to paragraph one, and use language stating that the requestor may secure a copy of the tape recording and/or the transcript of a Fair Hearing by written request free of charge to the recipient, but not free of charge to a provider in the case of a provider hearing.

Mr. Duarte asked if they should stipulate in Sec. 3104.13(c)(1) that it is free of charge to the recipient in the event that they appeal to District Court.

Mr. Faircloth agreed that would be appropriate language.

Mr. Liveratti stated that we would amend Sec. 3104.13(c)(1) would be amended by adding the following sentence after the first sentence in the paragraph, “This request is free of charge to the recipient, but not to a provider, only in the event that they appeal to District Court. Please note that the requestor shall be invoiced from the Department of Administration for this service and the requestor is responsible for the payment of these records.”

Mr. Liveratti continued with Sec. 3104.13(c)(2), the word “recipient” will be added to read, “An official typed transcription of the tape recording of the hearing is prepared for the District Court *and recipient...*”

Mr. Duarte clarified that it would state, "The requested tape recording and/or transcript of a Fair Hearing is free of charge to the recipient, and not the provider" instead of, "the *request* is free of charge".

Mr. Liveratti read it back to read, "The requested tape recording and/or transcript is free of charge to the recipient, but not to a provider, only in the event that the recipient appeals to District Court."

Mr. Liveratti asked for questions or comments from Carson City and Las Vegas. There were none.

Mr. Liveratti recommended to Mr. Duarte that MSM Chapter 3100 be approved as amended, that Sec. 3104.13(c)(1) and Sec. 3104.13(c)(2) have the following language added:

Sec. 3104.13(c)(1): A second sentence will be added to state, "The requested tape recording and/or transcript is free of charge to the recipient, but not to a provider, only in the event that the recipient appeals to District Court." The rest of the paragraph will stay the same.

Sec. 3104.13(c)(2): Adding the word "recipient" to state that, "An official typed transcription of the tape recording of the hearing is prepared for the District Court and recipient when a hearing decision is appealed."

Mr. Duarte accepts MSM Chapter 3100 changes as requested and amended, and specifically, accept the amendments proposed for Sections 3104.13(c)(1) and (c)(2); also allowing for spell check and grammar check.

Mr. Liveratti closed the Public Hearing on MSM Chapter 3100 and opened it for General Public Comments limited to 5 minutes per person.

There were no comments in Carson City or Las Vegas.

Mr. Liveratti closed the Public Hearing at 9:47 a.m.